

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

*(Write the District and Division, if any, of the
court in which the complaint is filed.)*

Michael Elias Cohen

**Complaint for Violation of Civil
Rights**

(Prisoner Complaint)

*(Write the full name of each plaintiff who is filing
this complaint. If the names of all the plaintiffs
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names.)*

Case No. _____
(to be filled in by the Clerk's Office)

-against-

Sheriff Royce Cole

Doctor Nerella

Webster County Jail

See attached

*(Write the full name of each defendant who is
being sued. If the names of all the defendants
cannot fit in the space above, please write "see
attached" in the space and attach an additional
page with the full list of names. Do not include
addresses here.)*

REQUEST FOR TRIAL BY JURY

Plaintiff requests trial by jury. ☒ Yes ☐ No

Jail Admin. Tina Davis

Sgt. Justin Burney

Nurse Abbey

Advanced Correctional Healthcare, Inc.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Michael Elias Cohen

All other names by which you have been known:

ID Number

Current Institution

Address

B. The Defendant(s)

- Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation.
- Make sure that the defendant(s) listed below are identical to those contained in the above caption.
- For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both.
- Attach additional pages if needed.

Defendant No. 1

Name

Roye Cole

Job or Title
(if known)

Sheriff

Shield Number

Employer

Webster County Sheriff Office

Address

231 N. Crittenden St.

Marshfield, Mo. 65706

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

Doctor Nereña

Job or Title
(if known)

Doctor

Shield Number

Employer

Webster Court Jail

Address

221 N. Crittenden St.

Marshfield, Mo. 65706



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):



Federal officials (a *Bivens* claim)



State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights.

What federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Rights to Due Process of law under the 14th Amendment, and Right to be free from the infliction of cruel and unusual Punishment as guaranteed by the 8th Amendment And the Free Exercise Clause

Name: Tina Davis

Job or Title: Jail Administrator

Shield Number:

Employer: Webster County Justice Center

Address: 221 N. Crittenden St. Marshfield, Mo. 65706

☐ Individual Capacity

☒ Official Capacity

Name: Justin Burney

Job or Title: Sgt.

Shield Number:

Employer: Webster County Justice Center

Address: 221 N. Crittenden St. Marshfield, Mo. 65706

☐ Individual Capacity

☒ Official Capacity

Name: Abbey

Job or Title: Nurse

Shield Number:

Employer: Webster County Justice Center

Address: 221 N. Crittenden St. Marshfield, Mo. 65706

☒ Individual Capacity

☒ Official Capacity

Name: Advance Correctional Healthcare, Inc.

Job or Title:

Shield Number:

Employer: Webster County Justice Center

Address: 221 N. Crittenden St. Marshfield, Mo. 65706

☒ Individual Capacity

☒ Official Capacity

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☒ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (*explain*) _____

IV. Statement of Claim

Write a short and plain statement of FACTS that support your claim. Do not make legal arguments. You must include the following information:

- What happened to you?
- What injuries did you suffer?
- Who was involved in what happened to you?
- How were the defendants involved in what happened to you?
- Where did the events you have described take place?
- When did the events you have described take place?

If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

Complained of medical issues, including back pain, blood in stool, and hearing voices. Dr. Nerella denied me adequate medical care while housed at the Webster County Justice Center. Nurse Abbey was responsible for triaging inmates. I have Chronic back pain caused by degenerative disk disease. because my request for medical care was denied, I suffer shooting pain in my back

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I filed a series of medical request and grievances and still did not received any treatment for my back conditions, and was force to walk around in pain. An objectively serious condition includes an ailment that significantly affects an individual's daily activities or which involves chronic and substantial pain. Dr. Nerella did not or have not provide me any treatment for my back condition or blood in the stool.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I'm seeking money damages in the amount of \$2.5 million dollars for chronic and substantial pain. And an injunction to prevent defendants from enforcing its unconstitutional customs and policies at the Webster County Justice Center

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

Ralk v. Lincoln County, Ga, 81 F. Supp. 2d 1372 (S.D. GA. 2000)

Singleton v. Rains (S.D. Ill. 2017)

Deliberate indifference to a serious medical need, an inmate must show that he (1) suffered from an objectively serious medical condition; and (2) that the Doctor was deliberately indifferent to a risk of serious harm from that condition.

An objectively serious condition includes an ailment that significantly affects an individual's daily activities or which involves chronic and substantial pain. Delaying treatment may constitute deliberate indifference if such delays exacerbated the injury or unnecessarily prolonged an inmate's pain.

Dr. Nerella did not provide me any treatment for my back ^{condition} ~~the Dr.~~ refused to perform any examination of my back.

Nonetheless, even non-medical officials may be found to be deliberately indifferent to a inmate serious medical needs if they have a reason to believe (or actual knowledge) that County jail Doctor or their assistants are mistreating (or not treating inmate.

Inmate could proceed with deliberate indifference claims against non-medical jail officials who failed to intervene despite their knowledge of his serious medical condition and inadequate

medical care, as explained in his "coherent and highly detailed grievances and other correspondences")

Plaintiff, Michael Elias Cohen is an inmate in the custody at the Webster County Justice Center. Cohen filed a civil rights complaint under ~~42~~⁴² U.S.C. § 1983 against five defendants at the County Jail at Marshfield Mo. Jail officials (Sheriff Royce Cole) (J.A. Tina Davis) (Sgt. Justin Burney). Jail Doctor (Dr. Nerella) and (Nurse Abbey) Cohen filed a series of several inmate grievances, and still did not received any treatment for his back condition, and he was force to walk around in pain. So therefore he's seeking money damages in the amount of \$2.5 million, This is a debilitating ~~and~~ possible life long issue if left untreated, and an injunction to prevent defendants from enforcing it's unconstitutional customs and policies at the Webster County Jail.

Defendant Advance Correctional Healthcare, Inc. (A.C.H.) provided medical care to the inmates at Webster County Justice Center. During my confinement, Cohen complained of medical issues, including back pain, blood in stool, and hearing voices, and claims that I was denied adequate medical and mental health care while housed at the Webster County Justice Center.

The Webster County Justice Center Jail's medical staff includes both employees of Advance Correctional Healthcare, Inc. (A.C.H.) and Webster County Justice Center. The medical staff employed by A.C.H. consists of Nurse Abbey R.N. and Dr. Nerella. (1) As a registered nurse, Nurse Abbey was responsible for triaging inmates (2) when inmates enter a jail that Dr. Nerella is responsible for, they become Dr. Nerella patient, regardless of the length of time they are in the jail. Because Dr. Nerella becomes the inmates' primary care physician when they enter the jail, he prescribes what medication he thinks is medically necessary and appropriate for the patient.

Plaintiff alleges the jail does not provide suicide prevention training to its employees, does not provide mental health or substance abuse screening to its employees, and does not have a suicide prevention policy in place. It states that the jail has no psychologists, psychiatrists, or counselors on call or available. Plaintiff states that the Webster County Justice Center contracts with Advanced Correctional Healthcare, Inc. to provide medical services, but these services apparently do not include any mental health services.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒
☐

Yes
No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Webster County Jail

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒
☐
☐

Yes
No
Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒
☐
☐

Yes
No
Do not know

If yes, which claim(s)?

Deliberate indifference to a Serious medical needs

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒
☐

Yes
No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐

Yes

☐

No

E. If you did file a grievance:

1. Where did you file the grievance?

At the Webster County Justice Center

2. What did you claim in your grievance? *(Attach a copy of your grievance, if available)*

Deliberate indifference to my medical needs
and chronic back pain and blood in stool.

3. What was the result, if any? *(Attach a copy of any written response to your grievance, if available)*

your grievance have been noted and
forward to medical

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

I appeal the decision all the way to
the Sheriff but to no avail have I
heard anything

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes
☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- _____
- _____
- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐

Yes

☒

No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐

Yes

☐

No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐

Yes

☒

No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐

Yes

☐

No *(If no, give the approximate date of disposition):*

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8-12, 2020

Signature of Plaintiff

Michael Elias Cohen

Printed Name of Plaintiff

Michael Elias Cohen

Prison Identification #

Prison Address

221. N. Crittenden St

City State Zip Code

Marshfield, Mo. 65706

Michael Elias Cohen
Webster County Justice Center
221 N. Cistenden St.
Marshfield, Mo. 65706

Deposit Funds, On-line at:
InmateCanteen.com

REC'D AUG 14 2020



Legal Mail
Rico

Mail Sent From
Webster County Jail

Legal Mail

Mail Sent From
Webster County Jail

Clerk's Office
United States District Court
Western District of Missouri
1400 US Courthouse
222 John Q. Hammons Parkway
Springfield, Mo. 65806